In the Supreme Court of the United States

OCTOBER TERM, 1969

No. 620

HENRY FRIED AND S. T. GRAND, INC., PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a jury trial in the United States District Court for the Southern District of New York, petitioners and others were convicted of conspiracy to violate the Interstate Travel Act (18 U.S.C. 1952) by using the facilities of interstate commerce to commit bribery in violation of State law.[1] The evidence showed a scheme by the conspirators to arrange a kickback from petitioners if Mr. Marcus, Water Commissioner of New York City, awarded a large contract to S. T. Grand, Inc., for cleaning the Jerome Park Reservoir in the Bronx. The interstate use of the

[1] A co-defendant, Corallo, has also filed a petition for a writ of certiorari from the affirmance of his conviction below (No. 578, this Term), to which we have filed a separate response.

telephone, between New York and Connecticut, was an integral part of the conspiratorial scheme.

Petitioners contend at length that the evidence was insufficient to show that they had knowledge that interstate facilities would be used; that their constitutional rights as alleged targets of the grand jury investigation were infringed; that one Itkin, who testified against petitioners, did not participate in the conspiracy as an actual member thereof but rather as a government informer; and that there was error in the cross-examination of character witnesses. Petitioners' claims—the principal of which are essentially challenges to the factual findings of the jury and the courts below—are fully dealt with and answered in the extensive opinion of the court of appeals, on which we rely (see Pet. 34a–38a, 39a, n. 2, 44a–58a, 63a). In view of the detailed consideration given petitioners' contentions by the court below, we perceive no need either to repeat its analysis or attempt to elaborate further. There is no warrant for additional review.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

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